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COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

February 14, 2005

The Honorable Elaine Chao
Secretary
U. S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Dear Secretary Chao:

It was reported in the New York Times on Saturday that the Department of Labor has entered into a nationwide "compliance agreement" with Wal-Mart over twenty-four child labor violations ("Wal-Mart Agrees to Pay Fine in Child Labor Cases," 2/12/2005). This agreement had been kept secret until the New York Times uncovered it.

According to the article, the agreement provides that the Department will give Wal-Mart 15 days' advance notice before investigating any wage and hour violations. The article cites a January 10, 2005, e-mail from the director of the Little Rock, Arkansas, Wage and Hour office that said, "Wage & Hour will not open an investigation of Wal-Mart without first notifying Wal-Mart's main office and allowing them an opportunity to look at the alleged violations and, if valid, correct the problem." The article states that, while the agreement was signed on January 6, 2005, the Department of Labor "made no public announcement." Additionally, the article does not state that Wal-Mart's employees were made aware of this new case-handling process for their wage and hour complaints with the Department. It quotes a long-time expert on wage and hour law that the agreement "appears to put Wal-Mart in a privileged position that to my knowledge no other employer has."

Wal-Mart, one of the nation's largest private sector employers, has been accused of a wide variety of serious labor law violations, including unsafe child labor practices, requiring employees to work off the clock, locking employees into stores overnight, discrimination in promotions and pay, engaging in unfair labor practices, and using undocumented workers. It is astonishing that the Department of Labor, on the heels of finding that Wal-Mart had engaged in serious violations of child labor laws -- even as Wal-Mart refused to publicly admit -- should

reward the company with a sweetheart regulatory deal that allows Wal-Mart's top officials a preview at complaints before they are officially investigated. Keeping the 'compliance agreement' a secret until a newspaper broke the story, long after the agreement had been implemented, is a breach of trust with Wal-Mart employees and the nation's workers – the very people whom your Department is charged with protecting.

The idea, as your Assistant Secretary, Victoria Lipnic, put it, of "mak[ing] sure [Wal-Mart officials] know we're going to come in" with 15 days' advance notice "and they had better be in compliance" strikes me as a rather poor – if not intentionally ineffective – law enforcement method for investigating serious labor law violations.

As part of the official oversight responsibilities of the Congress, and in my capacity as Senior Democratic Member of the Committee on Education and the Workforce, I am requesting your immediate responses to the following inquiries.

1. When did you become aware of the agreement allowing Wal-Mart to investigate future allegations of illegal treatment by its employees?
2. Did you personally approve or sign the agreement? If not, identify who within the Department reviewed and approved it.
3. Please provide me with the names of all Departmental personnel involved in the drafting of the agreement, or who conducted discussions with representatives of Wal-Mart prior to, during or after the conclusion of this agreement.
4. What other provisions are included in the agreement, other than the ones reported in the New York Times?
5. Who at the White House was informed of this agreement? Please provide names and dates of contact.
6. Who at the White House approved the agreement? Please provide the name and date of approval.

In addition to answering the above questions, please provide me with the following information:

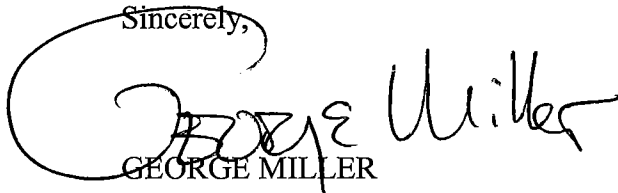
1. The notice, if any, provided to Wal-Mart employees that the United States government would be notifying their employer of allegations of wage and hour violations at least 15 days prior to conducting any investigation. Also please provide the date, scope, and manner such notice, if any, was provided to Wal-Mart employees.
2. Any and all directives, orders, explanations, or any other communications, whether by mail, fax, e-mail, or other means, by the national office of the Department of Labor to district and regional offices about the Wal-Mart compliance agreement, including the implementation of that agreement.

3. Any and all directives, orders, explanations, or any other communications, whether by mail, fax, e-mail, or other means, to district and regional offices about how to handle charges of any kind filed against Wal-Mart with any Department of Labor offices since 2001.
4. The names of all Department of Labor employees, officials, and agents and Wal-Mart officials and agents who participated in the negotiation of the Wal-Mart compliance agreement.
5. Any e-mails, letters, other correspondence, and phone logs relating to the negotiation or discussion, in any way, of the Wal-Mart compliance agreement in possession of the Department of Labor, including by individuals specified in (4) above.
6. Copies of draft or final agreements proposed by the Department or by Wal-Mart officials or its agents in the Department's possession regarding wage and hour issues or Family and Medical Leave Act issues.
7. A list of any individuals outside of the Department of Labor who were notified about the terms and conditions of any or all of the Wal-Mart compliance agreement or proposed agreements prior to the public disclosure forced by the New York Times on February 12, 2005, and a copy of such notification, if in writing.
8. A copy of all complaints (including those made verbally and recorded by the Department) made to the Department of Labor against Wal-Mart regarding wage and hour issues in the past 24 months, along with the status of the investigation.
9. A list of complaints that have been shared with Wal-Mart, both before and after the implementation of the Wal-Mart compliance agreement, along with any letters, e-mails, or other correspondence regarding such complaints.
10. A copy of the Wal-Mart compliance agreement and all other compliance agreements entered into by the Department of Labor with any employer since 1996.
11. A status report on all open wage and hour cases at any Department of Labor office by date of complaint or charge, whether the investigation is complete, whether an investigator was or has been sent on-site to the employer to investigate, and location of the office handling the charge.
12. A status report on the staffing levels of each wage and hour district and regional office in the country, with the number of wage and hour staff listed by location and by each year of your tenure as Secretary.
13. A copy of any and all correspondence from Wal-Mart to the Department of Labor regarding any wage and hour lawsuits, filed by the Department or by Wal-Mart employees, against Wal-Mart, including any overtime lawsuits which you have described as "needless litigation." (Testimony of Secretary Chao, Subcommittee on Labor, Health and Human Services, and Education, Committee on Appropriations, U.S. Senate, January 20, 2004).
14. A list of all court actions by date, court, and subject-matter filed by the Department of Labor against Wal-Mart.

I would appreciate your immediate response to these information requests. As this is an official inquiry by the Congress, please be aware, and make appropriate personnel of the Department of Labor aware, that destruction, alteration or concealment of any document or record requested herein may constitute a violation of law. Please have your office contact my staff at the Education and the Workforce Committee with any questions regarding this inquiry. I would appreciate having all requested materials no later than March 1, 2005.

Thank you in advance for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "George Miller". The signature is written in a cursive, flowing style. The first letter "G" is large and loops around the word "George". The last letter "r" has a long, horizontal tail stroke.

GEORGE MILLER

Senior Democratic Member